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7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2011-579**

11 **ANNA MARIE MEYER aka ANNA**
12 **MARIE BOYD**

A C C U S A T I O N

13 **29876 N. Cambridge Avenue**
14 **Castaic, CA 91384**

15 **Registered Nurse License No. 424911**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about April 30, 1988, the Board of Registered Nursing issued Registered Nurse
23 License Number 424911 to Anna Marie Meyer aka Anna Marie Boyd ("Respondent"). The
24 Registered Nurse License has been active at all times relevant herein and expires on May 31,
25 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
28 Department of Consumer Affairs, under the authority of the following laws:

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118 subdivision (b) of the Code grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

STATUTORY PROVISIONS

7. Section 2761 of the Code, which is part of Article 3 of the Nursing Practice Act, provides, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.”

8. Section 490 of the Code also allows for discipline of any professional licensee for substantially related convictions:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications,

functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law."

9. Section 2762 of the Code provides, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license."

10. Section 273a subdivision(a) of the Penal Code provides:

"Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years."

11. Section 23152 subdivision (b) of the Vehicle Code provides:

"It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle. For purposes of this article and Section 34501.16,

1 percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per
2 100 milliliters of blood or grams of alcohol per 210 liters of breath."

3 COST RECOVERY

4 12. Section 125.3 of the Code provides, in pertinent part, that the Board, Registrar, or
5 Director may request the administrative law judge to direct a licensee found to have committed a
6 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
7 investigation and enforcement of the case.

8 FIRST CAUSE FOR DISCIPLINE

9 (Conviction of a Substantially Related Offense)

10 13. Respondent is subject to disciplinary action under Section 2761 subdivision (f) and
11 Section 490 subdivision (a) of the Code because she was convicted of misdemeanor driving under
12 the influence for violating California Vehicle Code section 23152(b) and misdemeanor child
13 endangerment for violating California Penal Code section 273a(a). The circumstances of her
14 convictions were as follows:

15 14. On or about January 2, 2010, at approximately 4:30 in the afternoon, Respondent was
16 driving while intoxicated in heavy traffic on Interstate 5 south in Castaic, California with her 10
17 year-old daughter as a passenger. She crashed her car into a guardrail, causing the car to roll over
18 and end up resting upside down on the side of the road. She and her daughter were both admitted
19 to the hospital. Blood tests taken at her admission showed she had a blood alcohol level of .212
20 g/dl or 21%.

21 15. On or about June 30, 2010, Respondent pled nolo contendere to misdemeanor
22 violations of Vehicle Code section 23152(b), driving while intoxicated, and Penal Code section
23 273a(a), child endangerment. She was sentenced to three years' probation for the Vehicle Code
24 violation and ordered to participate in first-time offender alcohol and drug education and
25 counseling. She was also sentenced to 30 days in the Los Angeles County jail and four years'
26 probation for the child endangerment violation.

27 16. Under Section 2761 subdivision (f) of the Code, Respondent's convictions for
28 driving under the influence and child endangerment are grounds for the Board to take disciplinary

1 action because they "reflect a lack of sound professional and personal judgment that is relevant"
2 to her fitness and competence to practice nursing. *See Watson v. Superior Court* (2009) 176
3 Cal.App.4th 1407, 1423-24 (upholding discipline against physician under a similarly worded
4 statute for driving under the influence "under circumstances that posed a danger to himself and
5 others.")

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Use of Alcoholic Beverages in a Dangerous or Injurious Manner)**

8 17. By committing the acts set forth in paragraphs 13-16 above, incorporated and
9 realleged herein by this reference, Respondent is subject to discipline under Section 2762
10 subdivision (b) of the Code for driving with a blood alcohol level of .22, causing her to crash her
11 car on a freeway in heavy traffic with her and her child inside it.

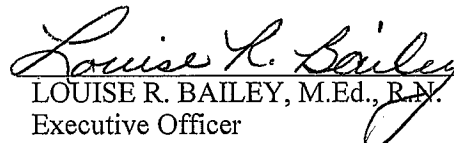
12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

- 15 1. Revoking or suspending Registered Nurse License Number 424911, issued to Anna
16 Marie Meyer aka Anna Marie Boyd;
- 17 2. Ordering Anna Marie Meyer aka Anna Marie Boyd to pay the Board of Registered
18 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
19 Business and Professions Code Section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21
22

23 DATED: _____

12/29/10

24 
25 LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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